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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,071	10/12/2004	Steven Victor Jones	BR8812	7044
7590 The Black & Decker Corporation Mail Stop TW199 701 East Joppa Road Towson, MD 21286			EXAMINER MITCHELL, KATHERINE W	
			ART UNIT 3677	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	04/18/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/511,071	JONES, STEVEN VICTOR	
	Examiner Katherine W. Mitchell	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 16 March 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1- 3, 5,7-10, 21-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1- 3, 5,7-10, 21-30 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date <u>3/16/2007</u>	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

The request filed on 3/16/2007 for a Request for Continuing Examination (RCE) under 37 CFR 1.114 is acceptable and an RCE has been established. Any previous finality is hereby withdrawn and a new action on the merits follows. Any newly-submitted claims have been added. An action on the RCE follows.

#### ***: Information Disclosure Statement***

1. The IDS has been considered and is being returned initialed.

#### ***Claim Objections***

2. Claims 1 and 9 are objected to because of the following informalities: minor cut and paste error - "said plurality of slots" in line 5-6 was changed to "three slots", but remains plurality in line 12.. Claim 9 is missing a comma after "said shoulder" in line 2.Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102 and 103***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1- 3, 5,7-10, 21-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Palm, USP 5183357, or in the alternative, under 35 U.S.C. 103(a) as obvious over Palm in view of Lacey, EP 0344005 or Dawdy US 3671061.

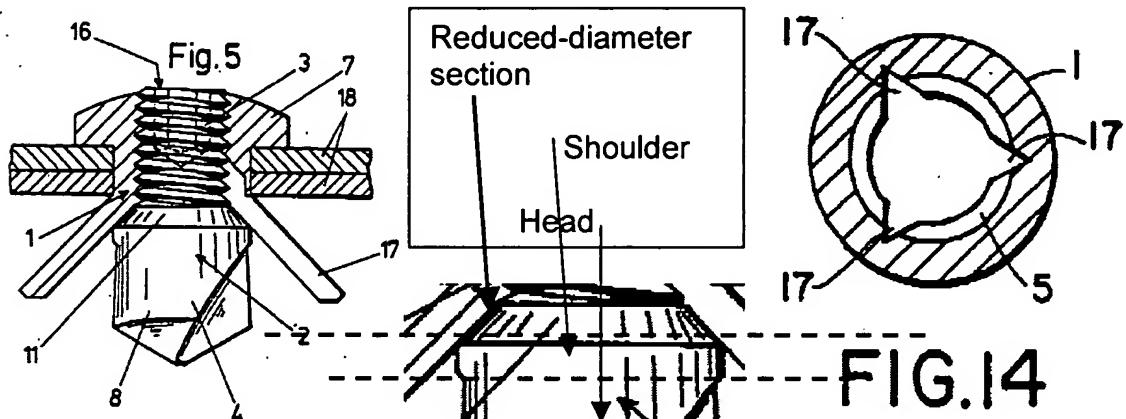


FIG. 14

Fig. 9

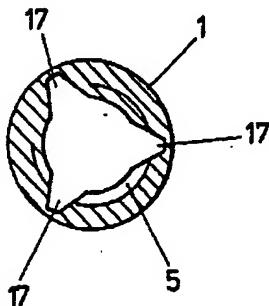
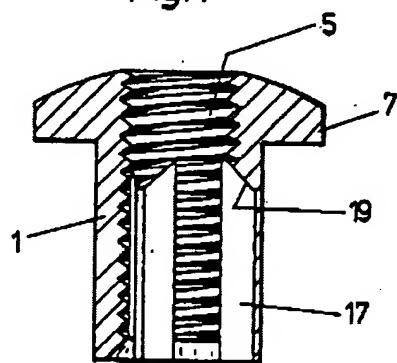


Fig. 7



Re claims 1-3, 21-23: Palm teaches a blind rivet assembly comprising:

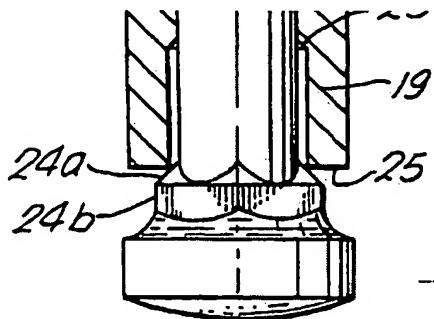
- An elongate tubular body 1 with a shank about a shank axis (Fig 7) and preformed head 7 at first end, and an expandable portion 17 at opposite end from head, said expandable portion defining 3 slots (Fig 9 or 14) that define a triangular aperture having substantially flat sides, noting that substantially flat includes that the side are

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convex (Figs 9 and 14). The slots are equally spaced about the tubular body circumference as described in claim 3 (Fig 9 and 14).

- There is a mandrel 2 having a coaxial stem and having a head with maximum external diameter greater than internal diameter of tubular body, (Fig 5), said head having a shoulder portion **substantially** perpendicular to the stem,
- and at least one of said [three] slots increases in width in a radial direction as it extends from tubular body outer surface to inner surface of said shank, and the substantially flat sides tangentially engage the mandrel (Fig 9, 14)

While examiner thinks Palm teaches a shoulder that can broadly be considered substantially perpendicular to the stem, if it is held that the shoulder is not substantially perpendicular, Lacey teaches a substantially perpendicular shoulder 24b in Fig 4,

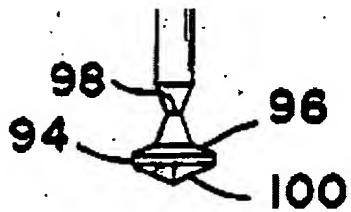


or Dawdy teaches a substantially perpendicular shoulder in Fig 5-8:

Mandrel 80 includes a main shaft 92 which will fit through the rivet opening 86, and extend a substantial distance out of the head 82. At the bottom of mandrel 80 is an enlarged bottom 94 of greater diameter than shaft 92, and having a top shaft 96 adapted to push upward and outward against the bottoms of weakened sections 88. The mandrel shaft 92 has a relatively small diameter neck 98 just above the enlarged bottom 94, which is designed to break when the mandrel top shaft 96 has pushed weakened sections 88 completely upward and outward.

In the preferred form of the invention, the mandrel includes a drill point 100 on the bottom face of the enlarged bottom 94, 25 for use with a special rivet gun adapted to rotate the rivet, to be described further below.

In FIG. 7, a rivet 50 is being held and affixed by a rivet gun 102, a bottom portion of the gun being shown. Gun 102 includes a hollow anvil 104 permitting a mandrel shaft 92 to extend up into the jawcase 106 disposed within the anvil 104, and be firmly grasped therein by the jaws 108. Jawcase 106 and jaws 108 are axially movable within the hollow anvil whereby mandrel shaft 92 is pulled upwardly, forcing enlarged bottom 94 against weakened sections 88, and head 82 against anvil 104. Further upward movement of rivet 50 is prevented by anvil 104 and consequently further upward movement of mandrel 80 causes weakened sections 88 to bend outward.



Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Palm and either Lacy or Dowdy before him at the time the invention was made, to modify Palm to include a substantially perpendicular shoulder, in order to obtain a head section that applies force to the tubular body expandable portion to force the expandable portion segments to separate outward and thus form an expanded portion.

Re claim 5 and 25: Fig 5 shows the slots having a radially inclined axial inner end so it is longer adjacent said inner surface than said outer surface of tubular body.

Re claim 7-8 and 27-28: Wall thickness and external diameter of said tubular body are constant along axial length of body.

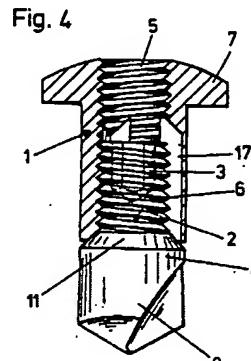
*shoul-der (shōl'dər) noun*

6. *An angled or sloping part, as: a. The angle between the face and flank of a bastion in a fortification. b. The area between the body and neck of a bottle or vase.*
7. *The area of an item or object that serves as an abutment or surrounds a projection, as: a. The end surface of a board from which a tenon projects.<sup>1</sup>*

<sup>1</sup>Excerpted from *The American Heritage Dictionary of the English Language, Third Edition* Copyright © 1992 by Houghton Mifflin Company. Electronic version licensed from Lernout & Hauspie Speech Products N.V., further reproduction and distribution restricted in accordance with the Copyright Law of the United States. All rights reserved.

Re claim 9 and 29: Mandrel stem with a circular cross-sectioned reduced diameter section adjacent shoulder portion is taught in Palm (see marked up figure above), in Lacy as 24a and in Dawdy as section between 98 and 96.

Re claim 10 and 30: The maximum diameter of the mandrel head is equal to the



diameter of said tubular body per Palm Fig 4:

Re claim 24: the flat sides are planar per Fig 9 and 14.

Re claim 26: Palm Fig 4 shows a flat bearing surface at the opposed end, engaged with the shoulder.

#### ***Response to Arguments***

6. Applicant's arguments with respect to all claims have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katherine W. Mitchell whose telephone number is 571-272-7069. The examiner can normally be reached on Mon - Thurs 10 AM - 8 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Katherine W Mitchell  
Primary Examiner  
Art Unit 3677

4/12/2007

